

REMARKS

Applicant expresses appreciation to the Examiner for consideration of the subject patent application. This amendment is in response to the Office Action mailed July 29, 2005. Claims 1-29 are pending. Claims 1-4, 11, 13-16, 23 and 25 were rejected. Claims 5-10, 12, 17-22, 24 and 26-29 were withdrawn. No claims have been amended in the response.

Claim Rejections - 35 U.S.C. § 102

Claims 1-4, 11, 13-16, 23, and 25 (including independent claims 1, 13, and 25) were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication 2003/0143788 to Chen (hereinafter “Chen”).

Applicant has previously submitted a declaration of Inventor Huei-Pei Kuo under 35 U.S.C. § 131 establishing a date of invention prior to the effective date of Chen. The Examiner found this affidavit insufficient to overcome Chen as lacking a showing of diligence from the date of Chen to actual or constructive reduction to practice.

Applicant submits that Chen is not prior art, as the disclosure relied upon in the rejection is Applicant’s own work, as established in the attached affidavits. No showing of diligence or reduction to practice is required when the subject matter disclosed in the reference is Applicant’s own work (MPEP § 2136.05; *in re DeBraun* 687 F.2d 459, 462 (CCPA 1982)). This may be shown by demonstrating that the author of the reference was associated with Applicant (e.g., worked for the same company) and learned of Applicant’s invention from Applicant (MPEP § 2136.05; *in re Mathews*, 408 F.2d 1393, 1396).

Applicant submits the declaration of Huei Pei Kuo under 35 U.S.C. § 132 establishing (1) a date of invention prior to the effective date of the Chen reference, (2) that Applicant was associated with the Chen inventors through their common employment by Hewlett Packard Company, and (3) that the Chen inventors learned of Applicant’s invention from Applicant.

A supplemental declaration by Paul Benning, a co-inventor of the Chen application, is also submitted under 35 U.S.C. § 132 establishing that Paul Benning learned of the invention claimed in the present application from Applicant.

Applicant respectfully submits that these declarations overcome the Chen reference, and that claims 1-4, 11, 13-16, 23, and 25 are therefore allowable, and urges the Examiner to withdraw the rejection.

CONCLUSION

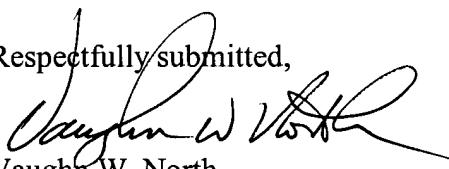
In light of the above, Applicant respectfully submits that pending claims 1-29 are now in condition for allowance. Applicant accordingly requests that the rejections and objections be withdrawn, and that the claims be allowed and passed to issue. If any impediment to the allowance of these claims remains, the Examiner is requested to call Vaughn North at (801) 566-6633 so that such matters may be resolved as expeditiously as possible.

No claims were added, therefore, no additional fee is due. Pursuant to 37 C.F.R. § 1.136(a), it is respectfully requested that the shortened statutory period be extended 1 month.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 08-2025.

DATED this 10th day of November, 2005.

Respectfully submitted,



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